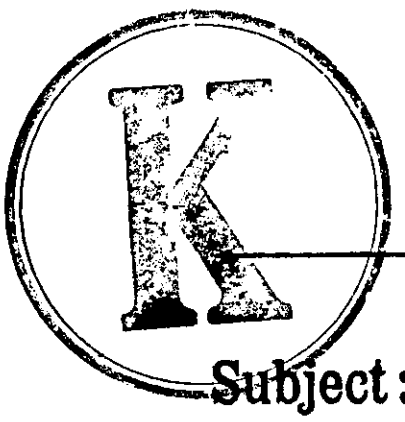
IV

1941. **File No.** C. Prov. Funds/41



Legal. **DEPARTMENT**

A **BRANCH**

Subject:—

Opinions under the

Provincial Funds Act, 1925.

P 23E

File No. O. Prov. Funds. 141

Std. Sectt. Slip 24 B a.

154 A

CONTENTS

Legal Department File No. 1 G. Prov. Fund /1941

Sr. No.	Compilation No.	Subject.	Pages
1	G.No. 141/6-1-41	Provident Funds Act, 1925-- Whether pension can be paid to the wife of a lunatic on the strength of a certificate issued by the Dist. Magistrate unless it is countersigned by the Political Agent. -	1-3
2	G.No. 500/22-1-41	Sec:7--Whether Payment made to Kalabai of her share in the Provident fund amount before the order of the Court would be protected under [illegible]	3-4
	G.No. 830/20-1-41	Whether wife can be considered to have been judicially-separated from her husband where maintenance has been granted by a Criminal Court. - Whether it is - Permissible to accept nominations in favour of persons other than members of the family as defined in rule 2(c) (1) of the Bom.G.P. Fund Rules. -	3-7
4	G.No. 1003 /22-3-41	Bom.G.P.Fund Rules, 1931 --Rule 7(3) - Whether the expression "person" in- includes an institution (whether registered or not). ---	7-9
5	G.No. 4737/24-6-41	Rule 17(b) - Whether there is any objection to paying their shares to Mr. H under-sub-para- 3-of -- if he has obtained a guardianship Certificate from the Court of the Dist. Judge, Ahmedabad .------	9-10
6.	H.T.No. 4007/30-5-41	Can payment of-his share of amount - be made to-a minor child after attaining majority. Can payment of shares of younger brother and sister who are still minors be made to eldest brother unless he produces the necessary - guardianship certificate authorising him to receive the [illegible] -----	11-12
7	G.No. 6810/2-8-41	G.P.Fund (Central Services) Rules - rule 15(1) (a) (iii) - whether the view-expressed by the Auditor General in regard to - are correct.-	12-14
8.	G.No. 8700/7-10-41	Whether the accumulations in-the fund can be paid to Mrs. Manifa Bai, sister of the deceased.---	15-16

Contents.

Legal Department File No.

Sr.No.	Compilation No.	Subject.	Pages.
9.	D.F.No.0363/41	Whether since the guardianship certificate has been counter-signed by the Political Agent, Malwa, the-Resident's counter signature is necessary ———	19-30
10.	O.No.0224 dt.30-10-41.	Whether under the orders contained in G.H.E:D:No.833 dt.15-8-1930, the provisions of the P.F.Act apply to Provident Funds which are not established in accordance with the rules sanctioned by Govt. under ———	31-34
11	O.No.0469/3-11-41	Hon. G.P.Fund Rules -rule 8(1) (c) (i)- whether Gangabai-and her two children constitute Ramkrishnan's family within the meaning of ——— Since Ramkrishnan made a declaration that he had no family, whether-it would be desirable-to take an indemnity bond from- with two sureties before the amount is paid ———	35-36
12	O.No.10771 dt. 19-12-41.	Sec.4 (1) (b) - If the Accountant General is satisfied that Malin Shah-is the person entitled to receive the amount-there would be no legal objection to paying the amount to him.———	37-39.
13.	O.No.10339/10.12.41	What course should be followed by the Accountant General when Court has ordered for payment of amount of provident fund to-Lalbi on her furnishing security———	40-33

K.S.R. 8/5

The facts of the present case are similar to those of the case which was the subject matter of the R.L.A.'s opinion No.7185, dated the 9th August 1940. The R.L.A. observed in that case that "In this case no manager has been appointed for the estate of the subscriber who is a lunatic. The wife of the lunatic is in Janjira State. If she is able to produce a certificate from a competent court in the Janjira State that she is entitled to recover the amount of the provident fund on behalf of the lunatic and is competent to pass a valid discharge for such payment and if such certificate is countersigned by the Political Agent, there will be no objection to make a payment to her". The certificate produced by Zainabai, the wife of the lunatic in the present case has been issued by the District Magistrate, Aurangabad (Hyderabad State) and authorises her to receive her husband's pension. It has not, however, been countersigned by the Political Agent. Consequently unless Zainabai gets this certificate countersigned by the Political Agent, no pension can be paid to her on behalf of her husband. Further unless she produces another certificate from a competent court and duly countersigned by the Political Agent the amount of the provident fund cannot also be paid to her.

Sd/- J.R.D. 7/1
Remembrancer of Legal Affairs.

U.O. to P. & S.D.No. 141 dated the 8th January 1941.

D.O.S. 17/4.

Office of the R.L.A.

"Judicial separation" means a separation of man and wife by decree of court, less complete than an absolute divorce; otherwise called a 'limited divorce'. (See Mitra's Law Dictionary, 3rd edition, 1933, page 1033; see also 'judicial separation' at page 647 of Ryan's Law Lexicon of British India). In an order granting maintenance under section 488 of the Criminal Procedure Code in the case of a wife whose husband has sufficient means but neglects or refuses to maintain her, there is involved no judicial order for separation of the parties inasmuch as the order is for grant of maintenance only and is in favour of and for the benefit of the wife as such. Such an order therefore cannot imply any divorce or judicial separation between the husband and the wife concerned. In a case like the present where the parties are presumably Hindus and are married according to Hindu rites, it appears that in law there can be no judicial separation at all, for as between husband and wife an agreement to live apart is against public policy and contrary to the spirit of the Hindu Law. (See Mulla's Hindu Law, 9th edition, 1940, section 442 at page 513 and also section 555 at page 590). Hence, it appears that in the case now under consideration and in similar cases where all that is proved is that maintenance has been granted by a Criminal Court to the wife such wife cannot be considered to have been judicially separated from her husband and it will not, therefore, be permissible to accept nominations in favour of persons other than members of the family as defined in rule 3(c)(i) of the Bombay General Provident Fund Rules.

sd/- P.N.M.
Remembrancer of Legal Affairs.

U.O. to R.& S.D. No. 699 dated the 20th January 1941.

D.O.No. 17/4

Office of the R.I.A.

The payment made to Malimbi of her share in the provident fund amount before the order of the Court would be protected under section 7 of the Provident Funds Act, 1925. The presumption made in para 3 of the Political and Services Department Office note at page 9 ante in this respect is, therefore, correct.

2. It is true that under the rules, on the production of a guardianship certificate by a person on behalf of the minors the amount can be paid to him (vide Rules 17(b) of the old Provident Fund Rules). But in this case the Court happened an order that Shaikh Abdul Rahiman is entitled to the provident fund. Though this order is illegal being opposed to the Provident Fund Rules and though Government is not bound to pay the amount to him, it would be safer to pay the shares due to the minor sons of Papamiya only on the production of a succession certificate by their guardian on their behalf as such a certificate would afford protection to Government under section 381 of the Indian succession Act, 1925. The presumption made in para.2 of the Political and Services Department office note at page 9 ante in this respect is not correct.

Sd/— P.N.M.
Remembrancer of Legal Affairs.

U.R. to P.& S.D. No. 580 dated the 22nd January 1941.

B.K S. 17/4

Office of the R.I.A.

The question for consideration of the Remembrancer of Legal Affairs is whether the expression "person" in rule 7(3) of the Bombay General Provident Fund Rules, 1930 includes an institution (whether registered or not). The answer appears to be in the negative.

2. Rule 7(3) of the Bombay General Provident Fund Rules, 1930 provides that a subscriber who has no family shall similarly nominate a person or persons in the form set forth in the Second Schedule. The expression "person" has not been defined in these rules, nor has it been defined in the Provident Funds Act, 1925 or in the Bombay Civil Services Rules (see rule 2(2) of the Bombay General Provident Fund Rules). Columns (3) and (5) of the Form in the Second Schedule to the Bombay General Provident Fund Rules provide for the statement of the relationship of the nominee, if any, with the subscriber and of his age. Rule 7(6) provides that on the death of a nominee a subscriber shall make a fresh nomination. From these references to the relationship, age and death of the nominee and in view of the absence of any definition thereof it appears that the expression "person" used in sub-rule (3) of rule 7 of the Bombay General Provident Fund Rules must be construed in its ordinary sense of an individual i.e. a natural person, a human being, and not an artificial person e.g. a corporation or an institution.

sd/- P.N.M. 21/2
Remembrancer of Legal Affairs.
sd/- 21/2

U.O. to P.& S.D.,No. 1885 dated the 22nd February 1941.

D.U.S. 17/4

D.L.A's Office.

If Mr. B.P. Mehta has obtained a guardianship certificate from the Court of the District Judge, Ahmedabad, on behalf of the two minors, Manharrai and Ashwantkumar, as to which G.D. may satisfy itself, there would be no objection to paying their shares to him under sub-paragraph 8 of rule 17(b) of the old G.P.Fund Rules.

2. As regards the share of Vidyagouri's son, the amount can be paid to the guardian of the minor on his obtaining a guardianship certificate as required by rule 17(b) of the old G.P.Fund Rules or it may be paid to him on his executing an indemnity bond in favour of Government on the understanding that the amount will be invested in Government Promissory Notes in the name of the minor as pointed out in D.L.A's opinion No. 8038, dated the 25th September 1940. But if both these alternative courses cannot be followed then there would be no legal objection to making payment to the guardian even without insisting onproduction of a guardianship certificate, if the Accountant General considers that he is the proper person to receive the amount on behalf of Vidyagouri's son after he has duly executed an indemnity bond with two sureties to the satisfaction of the Collector and he agrees to deposit the money in the bank in the name of the minors (D.L.A's opinion No 8038, dated 27th November 1937).

Sd/- P.N.M. 23/3.
Remembrancer of Legal Affairs.

D.F. to G.D., No.4787 dated 24-5-1941.

(Through P. & S.D.)

D.F.2//17/4

R.T.No. 4007.
20-5-41

Submitted

The late Mr. D.S. Khadeparkar, a subscriber to the Contributory Provident Fund had in the nomination made by him directed that the amount of the Contributory Provident Fund to his credit may be payable at the time of his death in equal shares between his two sons and one daughter. As the nominees were minors at the time of his death Mr. S.S. Khadeparkar, the brother of the deceased subscriber, who claimed to be the guardian of the three minors was informed that the payment of the amount in the contributory Fund at the credit of his deceased brother will be made to him on behalf of the three minor children on the production by him of a guardianship certificate from a competent civil Court. He has not however so far produced the necessary guardianship certificate. Meanwhile one of the nominees viz. the eldest son Digambar, has attained majority and has applied for payment to him of his the C.P.Fund accumulations to the credit of the deceased subscriber. The P.& T. D. is of opinion that there is no objection to the payment to him of his share of amount, but that the shares of his younger brother and sister who are still minors cannot be paid to him unless he produces the necessary guardianship certificate authorising him to receive the shares of his minor brother and sister. The G.L.A. has been asked to advise whether the view taken by P.&T.D. is correct.

2. Under rule 25(1)(a) of the Contributory Provident Fund Rules (Bombay), on the death of a

subscriber the amount standing to the credit of the deceased subscriber becomes payable to his nominees in the proportion specified in the nomination. All the nominees in the present case are "dependents" as defined in sec.2(c) the Provident Fund Act, 1925, and the respective shares payable to them under rule 25(1)(a) therefore vest in each of them severally (vide sec. 3(3). It is presumed that no legal guardian is appointed by Court of the person & property of the minors concerned. As the elder son has now attained majority he is competent to receive his share of the G.P.Fund accumulations andthe Accts.Genl. should pay it to him as required by section 4(1)(c) of the Act. He is however not the legal guardian of his minor brother and sister, and their shares cannot therefore be paid to him unless he is authorised by law to receive payment on their behalf. It is therefore necessary for him to produce a guardianship certificate. The view taken by P.& S.D. in para. 3 of its office note is correct. Papers are seen and returned.

sd/—— 23-5-41.

A.S. Reply may be as at A

D.F.S. 17/6.

Id. R.T.K. 23/6

A.L.R. Id. N.K.D.

R.L.A. Id. P.N.M. 28/6

Office of the U.K.A.

The views expressed by the Auditor General in regard to rule 15(1)(a)(iii) of the General Provident Fund (Central Services) Rules as reported at page 23 ante and by Deputy Secretary, P.& S.D., in his note at page 25 ante appear to be correct.

P.N.M.
Assistant Secretary (Legal Affairs).

31/7/41

U.O. to P.& S.D., No. 6810, dated the 2nd August 1941.

U.K.U. 17/4

Office of the R.L.A.

It appears that one Syed Mohamed, a clerk in the office of the Military Secretary to His Excellency the Governor who died recently has left behind a nomination declaring that the accumulations standing to his credit in the Bombay General Provident Fund should be paid to his sister Mrs. Hanifa Bee. He died unmarried. Besides the nominee, he has left behind two sisters, mother and an elder brother. The question for the consideration of the R.L.A. is whether the accumulations in the fund can be paid to Mrs. Hanifa Bee. Under sub-rule (1) of rule 7 of the Bombay General Provident Fund Rules, 1935. as soon as a subscriber joins the Fund, the Account Officer shall require him to make a nomination conferring the right to receive the amount that may stand to his credit in the Fund in the event of his death before the amount has become payable. A subscriber who at the time of joining the Fund has a family, has, under sub-rule (2) to send a nomination in favour of one or more members of his family. Family means, in the case of a male subscriber, the wife or wives and children of a subscriber, and the widow or widows, and children of a deceased son of the subscriber (vide rule 2(1)(c)(i)). Under sub-rule (3) a subscriber who has no family is also required to nominate a person or persons in the form set forth in the Second Schedule: Provided that this nomination shall be deemed to have been duly made in accordance with these rules only for so long as the subscriber has no family. In this case Mr. Syed Mohamed has made the nomination under sub-rule (3) of rule 7 and it remained valid till the amount became payable on account of his death on 8th June 1941 as he died unmarried. Rule 20(ii) provides that on the death of

a subscriber before the amount standing to his credit has become payable, when the subscriber leaves no family, if a nomination made by him in accordance with the provisions of rule 7 subsists, the amount standing to his credit in the Fund shall become payable to his nominee. Mr. Syed has left no family behind. His nomination, as stated above, subsists. Consequently the amount standing to his credit in the Provident Fund has become payable to Mrs. Hanifa Bee, the nominee, and none of his other relatives, i.e. sisters, mother or brother can claim any share.

"P.N.M."
Sd/———— 4/10
Remembrancer of Legal Affairs.
~~Sd/—— 4/10/41~~

U.O. to M.S.G's Office, No. 8700, dated 7th October 1941.

D.K.S. 17/4.

Submitted

The deposits to the credit of late

P. 1 ante. Ahmedkhan Nathekhan ratnan, a subscriber to the Bombay G.P.Fund who died on 5-1-1932 became divisible among five members of his family under the G.P.Fund Rules. One of the shares is due to his minor son, Esufalikhan. Mariambai, the widow of the late subscriber Ahmedkhan (and mother of the minor), produced a guardianship certificate issued by the Kamavisdar and Magistrat Durja Sayam Tahsil Bhabhara of Alirajpur State in respect of the minor Esufalikhan. As Government desired to be satisfied that

pp.5-7 -do- the guardianship certificate was issued by a competent Court of the Alirajpur State, it was forwarded to the Hon'ble the Resident for Gentral India for his countersignature

pp. 25 -do- and return. In his letter No.3747-B/84/40, dated 12-11-1940, the Hon'ble the Resident for Central India informed Government that as the Third Class Magistrate, Tehsil Bhabra, Alirajpur State, granted the certificate without any jurisdiction it was invalid. He further stated that a notice was issued by the Alirajpur Darbay to the relatives of the deceased to contest his wife's application. The Hon'ble Resident for Central India now forwards

p.63 ante with his letter No.3617-B, dated 26.9.41,

p.63A -do a certificate granted by the Dewan and Civil Judge Ahrajpur State, appointing Bai Marium as guardian of her minor son

and duly countersigned by the Political Agent in Malwa. The question for R.L.A's consideration is whether since the guardianship certificate has been countersigned by the Political Agent, Malwa, the Resident's countersignature is necessary.

2 It is held that a guardian appointed by a competent Court in a Native State within whose jurisdiction the minor resides can be treated as the legal guardian of the minor for purposes of payments to be made in British India and that payments may be made to such guardian unless there is any doubt about the Court which appointed the guardian (see Adv. General's opinion No.32, dated 28-7-1934 and R.L.A's.Nos. 4311B, dated 3-8-34 and 2275H, dated 27-4-1937) In the present case as the guardianship certificate is signed by the Dewan and Civil Judge, Alirajpur State and bears the seal of the Court, prima facie it may be regarded as having been granted by a competent Court. The countersignature of the Political Agent in Malwa leaves no doubt about the competence of the Dewan and Civil Judge, Alirajpur State, who granted the guardianship certificate. It does not therefore appear necessary to obtain also the countersignature of the Hon'ble the Resident for Central India. The papers may be "seen and returned".

vide A at p.65 -do-

B p. 205 -do-

pp.15-16 of O-Guardian & Wards/37

p. 63A ante

1A

Ia/E.P.B. 6/10

S.A.S. The P. A's Countersignature is sufficient to prove the validity of the certificate Granted in the present case & it is not

necessary to insist on the Resident's Countersignature.

A may be done.

Yd/ R.T.K. 7/10

I agree, As at 'A'.

Yd/ S.B.P. 8/10. R.L.A. Yd/- P.K.M. 9/10

A.L.R.

D.E.S. 17/4.

Office of the R.L.A.

The question referred to the R.L.A. for his opinion is whether under the orders contained in G.R., R.D., No. 033, dated 15th September 193, the provisions of the Provident Funds, Act, 1925, apply to Provident Funds which are not established in accordance with the rules sanctioned by Government under the said G.R. but which were established by the secondary schools previous to the 1st day of June 1939 in accordance with their own schemes and have been continued by such schools under rule 3(c) of the said rules.

2. A Section 3 of the Provident Funds Act, 1925, provides for the power to apply the provisions of that Act to any Provident Fund. Sub-section (3) of the section provides that the appropriate Government may, by notification in the Official Gazette, add to the Schedule to the Act the name of any public institution it may deem fit and that any such addition shall take effect as if it had been made by this Act. Sub-section (2) of the section provides that the appropriate Government may by notification in the Official Gazette, direct that the provisions of the Act shall apply to any Provident Fund established for the benefit of the employees of any of the institutions specified in the Schedule and on making such declaration, this Act shall apply accordingly as if such Provident Fund were a Government Provident Fund and the authority having custody were the Government In order, therefore, that the provisions of the Provident Funds Act may apply to any Provident Fund, it is necessary that

notifications as provided in these two sub-sections of section 8, one for adding the public institutions to the Schedule to the Act and another directing that the provisions of the Act shall apply to the Provident Fund of such institutions should be issued by Government. The provisions of the Act cannot, in law, be made applicable to any Provident Fund by mere executive orders. In this case it does not appear that any notification under sub-section (3) or (2) of section 8 of the Act is issued by Government. Consequently, the provisions of the Act do not apply to any of the Provident Funds established by the secondary schools, including the funds established in accordance with the rules sanctioned by Government under the G.R. referred to above as well as the old funds continued by the secondary schools. In order to apply the provisions of the Act to any such Fund, Government will in the first instance have to issue a notification under sub-section (3) of section 8 adding the secondary schools to the Schedule to the Act. Government will then have to issue a notification under sub-section (2) of the section applying the provisions of the Act to the Funds of such secondary schools. But before issuing such notification under sub-section (2), Government will have to satisfy itself that the rules governing the Fund are no inconsistent with the provisions of the Act. It appears that the rules sanctioned under the Government ~~Res~~ Resolution referred to above were scrutinised and approved by the R.L.A. (see R.L.A's U.R. No. 340-L, dated 1st August 1939). There is, therefore, no objection to issuing a notification under sub-section (2) of section 8 in respect of the Funds established in accordance with these rules. But as regards the other Provident Funds which are not established in accordance with the rules, it will be necessary to examine their rules before a notification is issued in respect of

such Funds under sub-section (2) of section 8.

Id/-P.M.M. 25/10
Remembrancer of Legal Affairs.

Id/--------
25/10/41

U.H. to E.D., No. 9284, dated the 28th October 1941.

B.K.S. 8/5/ 40.

Office of the R.L.A.

"Udiki" means marrying a widow (Wilson's Glossary, page 847). The remarriage of Hindu Widows is now expressly legalized by the Hindu Widows Remarriage Act,1856, and no religious ceremonies are necessary in the case of widows (see Mulla's Hindu Law pp.502, 509). It appears from the report of the Mamlatdar at page 5 ante that Gangubai was married to the deceased Ramkrishna. If so, Gangubai is Ramkrishna s legally wedded wife and the ofrsprings of their union are the legitimate children of Ramkrishna. Consequently Gangubai and her two children constitute Ramkrishna s family within the meaning of rule 2(1)(c)(i) of the Bombay General Provident Fund Rules. Since, however, Ramkrishna made a declaration that he had no family it would be desirable to take an indemnity bond from Gangubai and her children with two sureties as proposed by the Accountant General before the amount standing to the credit of the deceased Ramkrishna in the Provident Fund is paid to them.

Id/- P.N.M. 30/10
Remembrancer of Legal Affairs.
R.S.K.
30/10

U.R. to P. & S.D. No. 9469 dated the 3rd Nov., 1941.

B.K.S. 8/5/ 4c.

~~17~~

Office of the R.L.A.

As the deceased subscriber in the present case has neither left a family nor a subsisting nomination, neither rule 30(i) nor rule 30(ii) of the Bombay General Provident Fund Rules, 1936, is applicable. The accumulations in the fund amount to Rs. 270/- only. Under section 4(1)(b) of the Provident Funds Act, 1925, this amount will have to be paid to the person appearing to the Accountant General to be entitled to receive it. In this case it is not possible to obtain a succession certificate. The Tribal Jirga has, however, declared Khalim Shah to be the legal heir of the deceased subscriber. If the Accountant General is satisfied that Khalim Shah is the person entitled to receive the amount there would be no legal objection to paying the amount to him. It would however be safer to obtain an indemnity bond from Khalim Shah. The view expressed by the Deputy Secretary, P. & S.D. in this respect is correct.

P.N.M.
Rd/———— 12/12
Remembrancer of Legal Affairs.

U.R. to P.& S.D., No.10771 dated the 13th December 1941.

D.K.S. 17/4.

Opinion of the R.L.A.

It appears that one A.C.J.Farooky, a Sub-Inspector of Police, who was a subscriber to the Bombay General Provident Fund, died in May last leaving a balance of Rs. 3734 at his credit in the Fund. He has left behind a nomination dated 6th December 1939 directing that the amount should be paid to his second wife Lalbi. It appears that the daughters of the deceased subscriber by his first wife have filed a civil suit No.227 of 1941 in the Court of the First Class Sub-Judge, Dharwar, against Lalbi claiming as heirs a share in the provident fund amount: and the Court has issued a temporary injunction under Order 39 rule 1, Civil Procedure Code restraining Lalbi from receiving the whole amount of the provident fund and Government from paying her the amount. The Court has also issued another order under Order 39 rule 10 calling for the amount of the provident fund from the Accountant General for payment to Lalbi on her furnishing security as expressly agreed to by her The plaintiffs i.e. daughters seem to be relying on the decision of the Sind Judicial Commissioner's Court in Hayatuddin v. Mt.Rahiman and another (A.I.R. 1935 Sind 73). The question for consideration of the Remembrancer of Legal Affairs is what course should be followed by the Accountant General.

2. It appears that the decision in Hayatuddin vs. Rahiman (A.I.R.1935 Sind 73) supports the claim of the plaintiffs in the present case; but that decision is in direct conflict withthe decision of the Bombay High Court in Ahmad v. Jamala (37 B.L.R.370) where it

to

was held that the amount standing to the credit of a deceased subscriber in a provident fund would ensure for the benefit of that dependant-nominee alone and does not form part of the estate ofthe deceased divisible among his heirs or successors according to his personal law. The parties in that case also were Mahomedans. All the subordinate courts in the Province are bound by the decisions of the Bombay High Court. Consequently it is likely that the First Class Sub-Judge, Dharwar will follow the Bombay High Court's decision in Ahmad vs. Jamala (37 B.L.R.370) and dismiss the suit.

3. It appears that the present orders ofthe First Class Sub-Judge are not lawful. The temporary injunction order under Order 39 rule 1 must have been issued either against the Accountant General or against Government for withholding payment of the provident fund amount to Lalbi; but in either case the order is not lawful, for an injunction can be issued only against a party to the suit and not against a person who is not a party to the suit and not against a person who is not a party to the suit. (See Mulla's Civil Procedure Code 1941 Edition p.1129). The order under Order 39 rule 10 requiring the Accountant General to deposit the amount in Court for payment to Lalbi on her furnishing a security is not also lawful. Under Order 39 rule 10 the Court can order a party to the suit to deposit the amount. The Accountant General is not a party to the suit.

4. Since however the orders under reference are judicial orders, it would be unwise to disobey them and risk any possible proceedings for contempt

of Court. It appears therefore that the proper course in the present instance would be ~~f~~ to ask the District Government Pleader, Dharwar, to appear on behalf of the Accountant General and apply to the Court for vacating both the orders.

Td/P.N.M. 15/12
Remembrancer of Legal Affairs.

U.R. to P.& S.D., No. 10829, dated 16th December 1941.

D.K.S. 17/4.